

**TENTATIVE AGENDA
AND MINIBOOK
WASTE MANAGEMENT BOARD MEETING**

**Monday, June 14, 2010
HOUSE ROOM C
GENERAL ASSEMBLY BUILDING
9TH & BROAD STREETS
RICHMOND, VIRGINIA**

Convene – 10:00 a.m.

			TAB
I.	Minutes (December 16, 2009)		A
II.	Regulations - Final Exempt		
	Solid Waste Management Permit Action Fees and Annual Fees 9VAC20-90, Amendment A10w	Graham	B
III.	Regulations – Proposed		
	Voluntary Remediation Regulations 9 VAC 20-160, Amendment 2	Norris	C
IV.	Significant Noncompliance Report	Williams	D
V.	Public Forum		
VI.	Other Business		
	Division Director's Report	Steers	
	Legislative Update	Jenkins	
	Future Meetings		
VII.	ADJOURN		

NOTE: The Board reserves the right to revise this agenda without notice unless prohibited by law. Revisions to the agenda include, but are not limited to, scheduling changes, additions or deletions. Questions on the latest status of the agenda should be directed to Debra A. Miller at (804) 698-4206.

PUBLIC COMMENTS AT WASTE MANAGEMENT BOARD MEETINGS: The Board encourages public participation in the performance of its duties and responsibilities. To this end, the Board has adopted public participation procedures for regulatory action and for case decisions. These procedures establish the times for the public to provide appropriate comment to the Board for its consideration.

For REGULATORY ACTIONS (adoption, amendment or repeal of regulations), public participation is governed by the Administrative Process Act and the Board's Public Participation Guidelines. Public comment is accepted during the Notice of Intended Regulatory Action phase (minimum 30-day comment period) and during the Notice of Public Comment Period on Proposed Regulatory Action (minimum 60-day comment period). Notice of these comment periods is announced in the Virginia Register, by posting to the Department of Environmental Quality and Virginia Regulatory Town Hall web sites and by mail to those on the Regulatory Development Mailing List. The comments received during the announced public comment periods are summarized for the Board and considered by the Board when making a decision on the regulatory action.

For CASE DECISIONS (issuance and amendment of permits), the Board adopts public participation procedures in the individual regulations which establish the permit programs. As a general rule, public comment is accepted on a draft permit for a period of 30 days. If a public hearing is held, there is an additional comment period, usually 45 days, during which the public hearing is held.

In light of these established procedures, the Board accepts public comment on regulatory actions and case decisions, as well as general comments, at Board meetings in accordance with the following:

REGULATORY ACTIONS: Comments on regulatory actions are allowed only when the staff initially presents a regulatory action to the Board for final adoption. At that time, those persons who commented during the public comment period on the proposal are allowed up to 3 minutes to respond to the summary of the comments presented to the Board. Adoption of an emergency regulation is a final adoption for the purposes of this policy. Persons are allowed up to 3 minutes to address the Board on the emergency regulation under consideration.

POOLING MINUTES: Those persons who commented during the public hearing or public comment period and attend the Board meeting may pool their minutes to allow for a single presentation to the Board that does not exceed the time limitation of 3 minutes times the number of persons pooling minutes, or 15 minutes, whichever is less.

NEW INFORMATION will not be accepted at the meeting. The Board expects comments and information on a regulatory action or pending case decision to be submitted during the established public comment periods. However, the Board recognizes that in rare instances new information may become available after the close of the public comment period. To provide for consideration of and ensure the appropriate review of this new information, persons who commented during the prior public comment period shall submit the new information to the Department of Environmental Quality (Department) staff contact listed below at least 10 days prior to the Board meeting. The Board's decision will be based on the Department-developed official file and discussions at the Board meeting. In the case of a regulatory action, should the Board or Department decide that the new information was not reasonably available during the prior public comment period, is significant to the Board's decision and should be included in the official file, the Department may announce an additional public comment period in order for all interested persons to have an opportunity to participate.

PUBLIC FORUM: The Board schedules a public forum at each regular meeting to provide an opportunity for citizens to address the Board on matters other than those on the agenda, pending regulatory actions or pending case decisions. Those persons wishing to address the Board during this time should indicate their desire on the sign-in cards/sheet and limit their presentations to 3 minutes or less.

The Board reserves the right to alter the time limitations set forth in this policy without notice and to ensure comments presented at the meeting conform to this policy.

Department of Environmental Quality Staff Contact: Debra A. Miller, Policy Planning Specialist, Office of Regulatory Affairs, Department of Environmental Quality, 629 East Main Street, P.O. Box 1105, Richmond, Virginia 23218, phone (804) 698-4206; fax (804) 698-4346; e-mail: debra.miller@deq.virginia.gov

Final Regulations- Final Exempt

Solid Waste Management Permit Action Fees and Annual Fees - 9VAC20-90, Amendment A10w

Budget item 354 of House Bill 30, as amended and enacted by the 2010 General Assembly, removes \$1,250,000 of general funds from the Department of Environmental Quality's budget for waste programs and specifies that the board adopt regulations to ensure that general funds "shall not be required to cover direct costs related to issuance of all permits for the hazardous waste management program" and further specifies that the board adopt regulations to ensure that the "total fees collected are sufficient to cover not more than 60 percent of the direct costs of (i) processing an application to issue, reissue, amend or modify permits, and (ii) performing inspections and enforcement actions necessary to assure the compliance with permits issued for any sanitary landfill and other facility for the disposal, treatment or storage of nonhazardous solid waste." The Waste Management Regulation affected by this action is 9VAC20-90 (Solid Waste Management Permit Action Fees and Annual Fees). 9VAC20-60 (Virginia Hazardous Waste Management Regulations) is not affected by this action. The budgetary shortfall resulting from budget item 354 is predicted to be at least \$1,250,000. This action addresses that shortfall by providing an 80 percent increase in the annual fees to be collected from nonhazardous solid waste facilities. Because this shortfall is expected to grow as the program costs grow, provision is also made for annual adjustments to the solid waste annual fees based on the Consumer Price Index. This action also provides that the total amount of fees collected from nonhazardous waste facilities shall not exceed 60 percent of the direct costs of that program. After this increase, the total amount of permit fees collected in support of nonhazardous waste permits will represent 60 percent of the current direct costs of administration, compliance and enforcement of those permit programs, which is consistent with the 60 percent budgetary limit on such fees. Budget item 354 provides that regulations adopted by the board to initially implement the budget item 354 shall be exempt from requirements of Article 2 (§ 2.2-4006 et seq.) of Chapter 40, Title 2.2 of the Code of Virginia (the Administrative Process Act) and specifies that the regulations shall be effective no later than July 1, 2010. The regulation will become final upon publication in the Virginia Register. Nonetheless, comments from the public were invited during an abbreviated comment period (May 14, 2010 to May 27, 2010). Notice of the comment period was published electronically on the Department's web site throughout the comment period and was published electronically as a notice and by email distributed through the Virginia Regulatory Town Hall on May 14, 2010. The comments received during the comment period and the Department's responses will be provided to the Board prior to the meeting. The department will present final amendments to the Board at the meeting, request board adoption.

Proposed Regulations

Proposed Regulatory Amendments to the Voluntary Remediation Regulations

(9VAC20-160 – Amendment 2):

The Voluntary Remediation Regulation was last amended in 2002 and became effective as a final regulation on July 1, 2002. Based on a 4-year periodic review, it was determined that the regulations needed to be updated to include current remediation levels; sampling and analysis methods; improved reporting requirements; and clarification of eligibility, termination, and application requirements. Amendment 2 is intended to revise the procedures of the program so that sites can be processed more efficiently and to reflect changes in technology. A Notice of Intended Regulatory Action (NOIRA) was published in the Virginia Register of Regulations on January 31, 2008. The Department utilized the participatory approach by forming an ad hoc technical advisory committee (TAC) that held three (3) public noticed meetings (October 27, 2008; December 18, 2008; and August 31, 2009). A list of the members of the TAC as well copies of the TAC Meeting notes are attached to this memo. The TAC members discussed all of the key issues identified by the staff for consideration during the first two TAC meetings and provided recommendations for specific language changes to the staff for consideration. The TAC was called back for a third meeting to discuss options for dealing with program funding issues which were identified in a program "white paper" and to go over the proposed regulatory language amendments. DEQ staff reviewed and considered the recommendations made by the TAC, including possible EPA reaction and programmatic considerations. After this review, DEQ staff then developed the proposed regulation. This memorandum summarizes the key issues discussed and how those issues were resolved in the attached draft regulation. A document identifying all of the proposed changes to the regulation is attached.

Key Issues Addressed by the Proposed Regulatory Changes:

A. Section 10 - Definitions:

The members of the TAC discussed several changes to the definition section that were presented for consideration by program staff. Several changes to definitions to make them consistent with current practices were discussed and agreed to by the TAC. The definition of "remediation" was revised to clarify that "remediation may include, when appropriate and approved by the department, land use controls; natural attenuation; as well as monitored natural attenuation." In addition, several definitions designed to clarify the regulations were agreed to by the TAC. These included new definitions for "monitored natural attenuation"; "natural attenuation"; "post certificate monitoring."

B. Section 20 - Purpose:

This section has been revised to include characterization as part of the purpose of this chapter.

C. Section 30 - Eligibility criteria:

The section was revised to clarify that both the applicant and the proposed site must meet certain eligibility criteria. Requirements to clarify the intent of "access to a site"; "changes in property ownership"; "changes in agent"; and "site eligibility" were discussed and agreed to by the TAC.

The eligibility criteria related to the determination of a site being an "open dump" was discussed at length by the members of the TAC and an alternative version was agreed to by the TAC which provided specific conditions under which VRP eligibility related to the "open dump" criteria would be determined. DEQ staff revisited these eligibility criteria and revised them to make the VRP regulations consistent with Amendment 7 of the Virginia Solid Waste Management Regulations (VSWMR). This revision clarifies that VSWMR requirements are applicable to sites which have been determined to be an open dump or unpermitted facility.

D. Section 40 - Application for participation:

Proposed changes to this section include a clarification of the minimum required elements that are to be included in an application for participation in the program. A requirement for a map and acreage of the property has been added to the application materials. This section also provides a timeline for the department's completeness review of the application and establishes a verification process.

E. Section 60 - Registration fee:

This section has been revised to require that the statutory maximum registration fee be submitted at the time of program enrollment and that reconciliation of the final fee occurs after case closure rather than the existing system of estimating costs up front and reconciling prior to certificate issuance. The changes to this process are deemed necessary due to staff resources spent on tracking the amount of fee spent, reconciling fees and the issuance of refund checks. The proposed amendments would require the participant to seek a refund. A process for seeking a partial refund of the registration fee is included.

F. Section 70 - Work to be performed:

This section of the regulations has been revised to clarify the required components of the Voluntary Remediation Report. This revision requires the submittal of an assessment of any risks to off-site properties, clarifies the use of land use controls, and also clarifies the reporting requirements in the case where the participant determines that no remedial action is necessary. A requirement for analysis to be performed by laboratories certified by the Virginia Environmental Accreditation Program has been added.

A new requirement is being proposed that stipulates that an annual status report be submitted for all sites that are enrolled on the VRP. The status report contains a brief summary of any actions ongoing or completed as well as any planned future actions and will

help staff monitor site progress as well as report development. A requirement related to the possible termination of eligibility due to failure to submit the required annual report has also been added.

G. Section 90 - Remediation levels:

Significant reformatting of this section was deemed necessary for clarification, stream-lining, and updating of references. The section was revised to provide a distinction between remediation levels based on human health and remediation levels based on ecological receptors. The acceptable carcinogenic risk for individual constituents was increased from 10^{-6} to 10^{-5} when calculating remediation levels. Language was also revised to clarify the process for selecting Tier II remediation levels for surface water. A subsection specifically addressing the presence of ecological receptors on a site has been added.

H. Section 100 - Termination:

This section was revised to clarify the conditions under which participation in the program may be terminated and adds a requirement that the participant must make reasonable progress towards completion of the program to remain eligible.

I. Section 110 - Certification of satisfactory completion of remediation:

This section has been revised to clarify the conditions under which the department shall issue a certification of satisfactory completion of remediation. A subsection has been added to clarify when a site meets the requirements for unrestricted use. Revised language also provides the requirements that must be met if the site does not achieve an unrestricted use classification. Requirements for the filing of the certificate within 90 days of execution as well as the inclusion of any post certificate requirements have been added. A 60-day notification requirement has been added for those properties that have a certificate of satisfactory completion and are subject to use restrictions when there is a change in ownership.

J. Section 120 - Public notice:

The concept of the department's "acceptance" of the site characterization report and the proposed or completed remediation has been clarified. DEQ has included a requirement for the participant to provide written notice to all adjacent property owners and other owners whose property has been impacted by the release being addressed under the VRP project as soon as the department accepts the site characterization report and the proposed or completed remediation and prior to the department's issuing a certificate has been added. The notification requirements have been revised and reformatted for clarification. The revised language also provides for the acknowledgement of the receipt of written comments and an evaluation of the comment's impact on the planned or completed action or actions.

Staff Recommendation: After making a presentation on the above issues, and answering any questions the Board may have, staff will be asking the Board for approval to proceed to notice of public comment and hearing on the draft regulatory changes proposed for Amendment 2 to 9 VAC 20-160, the Voluntary Remediation Regulations.

**HAZARDOUS WASTE SIGNIFICANT NON-COMPLIERS AND SOLID WASTE FINAL ORDERS FOR
FEDERAL FISCAL YEAR 2010 TO DATE
(October 1, 2009 to June 14, 2010)**

Active HW SNC Cases – Table A

Location (DEQ Region)	Case Name	Brief Description of Alleged Violations	Status
City of Roanoke (BRRO)	Chemicals and Solvents, Inc.	Failure to adhere to hazardous waste ("HW") generator and transporter requirements. Possible releases.	Pending EPA enforcement action.
Westmoreland Co. (PRO)	Carry-On Trailer Corp.	Unpermitted storage of HW. Manifest, record keeping and reporting violations. Training violations.	Consent Order under development.
City of Richmond (PRO)	Dominion Packaging Inc.	Storage and labeling violations. Manifest, record keeping, and training violations.	Consent Order under development.
City of Danville (BRRO)	Essel Propack Graphics	Labeling and storage violations. Failure to conduct weekly inspections.	Consent Order under development.
Fauquier Co. (NRO)	Fiberglass Engineering Co.	Failure to have waste analysis plan. Failure to make proper HW determination. Training violations.	Consent Order under development.
Carroll Co. (SWRO)	Gary H. Parsons	Improper storage of HW. HW container violations.	EPA removal action at the site.

City of Lynchburg (BRRO)	Griffin Pipe Products	Failure to make a HW determination. Labeling and storage requirements. Land disposal restriction violation.	Consent Order under development.
City of Hopewell (PRO)	Honeywell International, Inc.	Final violations undetermined by EPA at this point.	Pending EPA enforcement action.
Sussex Co. (PRO)	Indmar Coatings (2)	Unpermitted storage of HW. Container violations. Failure to do HW training. Other violations.	Draft order sent to party 11/5/09. Party requested Ability-to-Pay analysis.
City of Roanoke (BRRO)	ITT Corporation-Night Vision	Improper acceptance of HW from off-site facility.	Consent Order signed by the party April 29, 2010. Draft in public notice. 1,800 civil charge.
City of Radford (BRRO)	J & J Sales	Failure to make HW determination. HW Container violations.	Draft Consent Order sent to party on 9-25-2009.
Fauquier Co. (NRO)	Kelmar, Inc.	Failure to make HW determination. Labeling and storage violations. Unpermitted HW management.	Consent Order under development.
Accomack Co. (TRO)	KMX	Land Disposal Restrictions violations.	Pending EPA enforcement action.
Amherst Co. (BRRO)	Lynchburg Steel Company, LLC	Failure to notify as Large Quantity Generator and submit reports and fees. Universal Waste ("UW"), manifest, and labeling violations.	Consent Order signed by party April 14, 2010. Draft in public notice. \$17,407 civil charge.
City of Norfolk (TRO)	Naval Station Norfolk	Accumulation of HW past 90 days as LQG.	Consent Order under development.
City of Portsmouth (TRO)	Norfolk Naval ShipYard	Transporter and manifest violations.	Consent Order under development.
Henrico Co. (PRO)	Oilfield Pipe and Supply, Inc.	Labeling violations. Failure to make HW determination. Failure to inspect containers.	Consent Order signed by party March 26, 2010. Public notice ended May 7, 2010. \$9,814 civil charge.
City of Roanoke (BRRO)	Pragmatic Environmental Solutions Co.	Failure to make HW determination. HW container violations. Failure to perform HW training.	Draft Consent Order sent to party on January 13, 2010. Party requested Ability-to-Pay analysis.
City of Richmond (PRO)	Sampson Coatings	HW container violations. UW violations.	Consent Order under development.
Amelia Co. (PRO)	The Amelia Lumber Co.	HW storage violations. HW generator violations.	Draft Consent Order sent to party on February 19, 2010.
City of Roanoke (BRRO)	Transformer Electric Co. Inc.	HW container violations. Solid waste violations. HW emergency and preparedness violations.	Draft Consent Order sent to party on 9-25-2009.
City of Harrisonburg (VRO)	Transprint USA, Inc.	Air emission violations. Improper labeling, managing, and contingency plan violations.	Pending EPA enforcement action.

Resolved HW Cases – Table B

Location (DEQ Region)	Case Name	Brief Description of Alleged Violations	Status
Henrico Co. (PRO)	Advanced Technologies Processing, Inc., et als.	Failure to obtain permit to receive, store or recycle HW. Failure to operate UW lamp processing equipment properly. Failure to contain releases from UW lamps. Other violations.	Consent Order effective December 21, 2009. \$165,000 civil charge and Schedule of Compliance included. Consent Order requires RCRA closure at the facility.
Henry Co. (BRRO)	Bassett Furniture Industries, Incorporated	Failure to make HW determination. Improper labeling and training violations.	Consent Order effective October 16, 2009. \$5,500 civil charge.
Campbell Co. (BRRO)	BGF Industries, Inc.	Improper labeling and UW storage violations.	Consent Order effective April 26, 2010. \$3,850 civil charge.
Campbell Co. (BRRO)	Georgia-Pacific Wood Products	Improper managing and labeling of HW. Failure to meet Land Disposal Restrictions.	Consent Order effective February 24, 2010. \$11,000 civil charge.
City of Harrisonburg (VRO)	James Madison University	HW generator violations. HW storage violations. HW container violations. Failure to perform HW training. UW violations.	Executive Compliance Agreement effective January 25, 2010. Schedule of Compliance included.
Essex Co. (PRO)	SCER Supreme Inc. (New Jersey ID)	Failure to meet notification or storage requirements for HW and UW lamps in trailers at facility. Failure to obtain HW transporter permit.	Issues combined with Advanced Technologies Processing, Inc.
Russell Co. (SWRO)	Strata Mine Services Inc.	HW container violations. HW generator violations. Multi-media VPDES violations identified as well.	Waste and Water Consent order effective October 28, 2009. \$8,400 civil charge for HW violations.
City of Salem (BRRO)	Tecton Products	Failure to make HW determination. Improper HW treatment. HW generator violations.	Consent Order effective December 21, 2009. \$44,642 civil charge. Schedule of Compliance included.

Total FFY 10 to date Hazardous Waste Consent Orders = 6

Total FFY 10 to date Civil Charges= \$234,542

Resolved Solid Waste Cases – Table C

Note: SNC status does not apply to Solid Waste cases

Location (DEQ Region)	Case Name	Brief Description of Alleged Violations	Status
City of Suffolk (TRO)	American Transportation Systems LLC f/k/a American Environmental Group AEG LLC	Unpermitted regulated medical waste management activity, including loading, repackaging, and storage of regulated medical waste.	Consent Order effective October 1, 2009. \$75,000 civil charge. Schedule of Compliance included.
City of Chesapeake (TRO)	C & M Industries, Inc.	Unpermitted solid waste management activity.	Consent Order effective October 1, 2009. \$4,200 civil charge. Schedule of Compliance included.
Albemarle Co. County (VRO)	Crown Orchard Company L.P., L.L.P	Unpermitted solid waste management activity involving municipal solid waste.	Consent Order effective January 10, 2010. \$9,551 civil charge. Schedule of Compliance included.
City of Marion (SWRO)	Department of Behavioral	Improper management and disposal of regulated medical	Executive Compliance Agreement effective April 6, 2010. Schedule of

Location (DEQ Region)	Case Name	Brief Description of Alleged Violations	Status
	Health and Developmental Services and Southwestern Virginia Mental Health Institute	waste.	Compliance included.
County of Montgomery (BRRO)	Haile Landscaping Design, Inc.	Unpermitted solid waste management activity and open burning of solid waste.	Consent Order effective December 21, 2009. \$13,164 civil charge.
City of Winchester (VRO)	PolyOne Engineered Films, Inc.	Old unpermitted solid waste management site.	Consent Order effective March 17, 2010. Schedule of Compliance included.
City of Chesapeake (TRO)	Tidewater Green Corporation	Unpermitted materials recovery facility.	Consent Order effective October 1, 2009. \$3,500 civil charge. Schedule of Compliance included.
City of Arlington (NRO)	Virginia Hospital Center Arlington Health System and Aramark Healthcare Support Services, LLC for Virginia Hospital Center	Improper regulated medical waste handling and disposal.	Consent Order effective October 5, 2009. \$93,758 civil charge. Schedule of Compliance included.

Total FFY 10 to date Solid Waste Consent Orders =7

Total FFY 10 to date Civil Charges= \$199,173